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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/621,741	07/17/2003	Shailendra K. Saxena	5016 US	9430
20439	7590	10/21/2005	EXAMINER	
MARK H JAY POST OFFICE BOX E SHORT HILLS, NJ 07078			PATTERSON, CHARLES L JR	
			ART UNIT	PAPER NUMBER
			1652	

DATE MAILED: 10/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/621,741

Applicant(s)

SAXENA, SHAILENDRA K.

Examiner

Charles L. Patterson, Jr.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-56 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-56 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

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Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-3, drawn to a vector containing DNA encoding SEQ ID NO:1, classified in class 435, subclass 320.1.
- II. Claim 4, drawn to a vector containing DNA encoding SEQ ID NO:17, classified in class 435, subclass 320.1.
- III. Claim 5, drawn to a vector containing DNA encoding SEQ ID NO:34, classified in class 435, subclass 320.1.
- IV. Claim 6, drawn to a vector containing DNA encoding SEQ ID NO:51, classified in class 435, subclass 320.1.
- V. Claim 7, drawn to a vector containing DNA encoding SEQ ID NO:55, classified in class 435, subclass 320.1.
- VI. Claims 8 and 16-17, drawn to a protein of SEQ ID NO:59, classified in class 435, subclass 199.
- VII. Claims 9 and 53-54, drawn to a protein of SEQ ID NO:1 and a fusion protein comprising SEQ ID NO:1, a targeting moiety and a linker, classified in class 435, subclass 199.
- VIII. Claims 10, 20-21, drawn to a protein of SEQ ID NO:60, classified in class 435, subclass 199.
- IX. Claim 11, drawn to a protein of SEQ ID NO:17, classified in class 435, subclass 199.
- X. Claims 12, 24-25, drawn to a protein of SEQ ID NO:61, classified in class 435, subclass 199.
- XI. Claim 13, drawn to a protein of SEQ ID NO:34, classified in class 435, subclass 199.
- XII. Claims 14, 33-34, drawn to a protein of SEQ ID NO:68, classified in class 435, subclass 199.

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- XIII. Claim 15, drawn to a protein of SEQ ID NO:51, classified in class 435, subclass 199.
- XIV. Claim 16, drawn to a protein of SEQ ID NO:59, classified in class 435, subclass 199.
- XV. Claims 18-19, drawn to a gene encoding SEQ ID NO:59, classified in class 536, subclass 23.2.
- XVI. Claims 22-23, drawn to a gene encoding SEQ ID NO:60, classified in class 536, subclass 23.2.
- XVII. Claims 26-27, drawn to a gene encoding SEQ ID NO:61, classified in class 536, subclass 23.2.
- XVIII. Claim 28, drawn to a protein of SEQ ID NO:63, classified in class 435, subclass 199.
- XIX. Claim 29, drawn to a protein of SEQ ID NO:65, classified in class 435, subclass 199.
- XX. Claim 30, drawn to a protein of SEQ ID NO:67, classified in class 435, subclass 199.
- XXI. Claim 31, drawn to a protein having SEQ ID NO:1 preceded by all or part of SEQ ID NO:64, classified in class 435, subclass 199.
- XXII. Claim 32, drawn to a protein having SEQ ID NO:1 preceded by all or part of SEQ ID NO:66, classified in class 435, subclass 199.
- XXIII. Claims 35-36, drawn to a gene encoding SEQ ID NO:68, classified in class 536, subclass 23.2.
- XXIV. Claims 37-38 and 41, drawn to a protein of SEQ ID NO:69 and SEQ ID NO:69 and a targeting moiety, classified in class 435, subclass 199.
- XXV. Claims 39-40, drawn to a gene encoding SEQ ID NO:69, classified in class 536, subclass 23.2.

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XXVI. Claim 42, drawn to a protein having SEQ ID NO:17 preceded by all or part of SEQ ID NO:64, classified in class 435, subclass 199.

XXVII. Claim 43, drawn to a protein having SEQ ID NO:17 preceded by all or part of SEQ ID NO:66, classified in class 435, subclass 199.

XXVIII. Claim 44, drawn to a protein having SEQ ID NO:34 preceded by all or part of SEQ ID NO:64, classified in class 435, subclass 199.

XXIX. Claim 45, drawn to a protein having SEQ ID NO:34 preceded by all or part of SEQ ID NO:66, classified in class 435, subclass 199.

XXX. Claim 46, drawn to a protein having SEQ ID NO:51 preceded by all or part of SEQ ID NO:64, classified in class 435, subclass 199.

XXXI. Claim 47, drawn to a protein having SEQ ID NO:51 preceded by all or part of SEQ ID NO:66, classified in class 435, subclass 199.

XXXII. Claim 48, drawn to a protein of SEQ ID NO:55, classified in class 435, subclass 199.

XXXIII. Claims 49-50 and 55, drawn to a fusion protein of SEQ ID NO:70 and a targeting moiety, classified in class 435, subclass 199.

XXXIV. Claims 51-52, drawn to a gene encoding a fusion protein of SEQ ID NO:70, classified in class 536, subclass 23.2.

XXXV. Claim 56, drawn to a vector containing SEQ ID NO:71 encoding SEQ ID NO:70, classified in class 435, subclass 320.1.

The inventions are distinct, each from the other because:

Groups I-V, XV-XVII, XXIII, XXV, XXXIV and XXXV are drawn to genes and/or vectors containing genes, which are completely different chemical compounds than Groups VI-XIV, XVIII-XXII, XXIV, XXVI-XXXIII that are drawn to

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proteins, and are patentably distinct. Claims XXI and XXII are drawn to SEQ ID NO:1 preceded by two different sequences and are different than Group VII, which is drawn to only SEQ ID NO:1 not attached to another SEQ ID NO. The genes and proteins of the different sequences have different sequences and are structurally different from each other and are therefore patentably distinct.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification and recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles L. Patterson, Jr., PhD, whose telephone number is 571-272-0936. The examiner can normally be reached on Monday - Friday from 7:30 to 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ponnathapura Achutamurthy, can be reached on 571-272-0928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see

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<http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Charles L. Patterson, Jr.  
Primary Examiner  
Art Unit 1652

Patterson  
October 17, 2005